

8

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 3RD DAY OF APRIL 1998

Before :

THE HON'BLE MR.JUSTICE G.PATRI BASAVANA GOUD

WRIT PETITION No.34013/1996

Between :

The Asst.Executive Engineer,
Minor Irrigation, Quality
Control sub-Division,
Dharwad.

667
.. Petitioner

(By Sri.K.H.Jagadish, HCGA)

And :

1. Sri.U.M.Kyathannavar,
Lab Assistant,
C/o Assistant Executive
Engineer, M.I. Quality Control
sub-division, Dharwad, rep.
by Sri.M.M.Joshi, Vice-
President, Karnataka State
Government Daily Wage Employees
Federation, Hosur, Hubli.

2. Industrial Tribunal, Hubli,
by its Presiding Officer.

.. Respondents

This writ petition is filed under Articles
226 & 227 of the Constitution of India praying
to quash vide Ann.A dated 24.2.1996.

This writ petition is coming on for orders
this day, the Court made the following :

✓
...2.

ORDER

In this writ petition under Articles 226 & 227 of the Constitution, the petitioner-employer seeks quashing of the award of the Industrial Tribunal, Hubli, dated 24.2.1996 at Annexure-'A', by which the Tribunal has directed reinstatement of the 1st respondent-workman to his original post with the benefit of continuity of service and consequential benefits and also with back wages at Rs.780/- per month from the date of termination till the date of reinstatement.

2. The 1st respondent raised an industrial dispute, that came to be referred to the Industrial Tribunal, Hubli, under Section 10 (4-A) of the Industrial Disputes Act, 1947, ('Act' for short) contending that he had continuously worked as Lab Assistant on daily wage basis from 10.2.1988 to 11.5.1989 and that his services were terminated without compliance with Section 25-F of the Act. In course of evidence, it was suggested in the cross examination of the 1st respondent-workman that the 1st respondent had in fact worked, but, it was only on temporary basis. It is, thus, admitted that the

a ✓

666

-: 3 :-

1st respondent had been working with the petitioner. This is, however, made clear from Ex.W-1 the Certificate issued by the petitioner-employer himself, which clearly shows that the 1st respondent had worked for more than 240 days. On the basis of the evidence on record, therefore, the Labour Court has rightly held that 1st respondent had put in continuous service within the meaning of Section 25-B of the Act and there was no compliance with Section 25-F of the Act. The Labour Court has, therefore, rightly directed reinstatement of the 1st respondent with the benefit of continuity of service and consequential benefits. The Labour Court, however, acted arbitrarily in directing back wages to be paid right from the date of termination. While doing so, the Labour Court has ignored the aspect of delay in raising the dispute. In the circumstances, I am of the opinion that, back wages, that too, only to the extent of 50%, should be awarded from the date of reference till the date of reinstatement. To this extent, the impugned awards needs to be modified.

Q

667

3. Writ petition is partly allowed. Impugned award is modified. First respondent is directed to be reinstated in service with the benefit of continuity of service and other consequential benefits. He shall, however, be entitled to back wages only to the extent of 50% and that too from the date of reference i.e. from 14.5.1992 till the date of reinstatement. Reinstatement and payment of back wages in terms of this modified award shall be done within four months from today.

Sd/-
JUDGE

